

1 Q. DID YOU SEE WHERE HE CAME FROM?

2 A. YES, I DID.

3 Q. WHERE DID HE COME FROM, DIRECTIONALLY SPEAKING?

4 A. HE CAME -- I WAS PARKED NEXT TO TWO TREES TO THE -- THAT
5 WOULD BE THE WEST OF THE BATHROOMS ON CRISSY FIELDS, ON A GRASSY
6 AREA. IT WAS A VERY BUSY SUNDAY. THERE WAS SOME KIND OF EVENT
7 HAPPENING THERE, SO THERE WAS VERY LITTLE PARKING, SO PEOPLE
8 WERE PARKED ON THE GRASS.

9 Q. WERE THERE LOTS OF DIFFERENT CARS PARKED AROUND YOU?

10 A. YES. THERE WERE CARS EVERYWHERE. THERE WAS A WIND SURFING
11 EVENT.

12 Q. JUST ANSWER MY QUESTION.

13 MS. FALK: WITH THE COURT'S PERMISSION, I WOULD ASK
14 MISS MAYS TO DRAW A DIAGRAM OF WHERE HER CAR WAS.

15 A. CERTAINLY.

16 Q. IF YOU CAN -- AGAIN, FOR THE RECORD, THE TOP OF THE PAPER
17 BEING NORTH, THE BOTTOM SOUTH, THE WEST TO THE LEFT, AND EAST
18 BEING TO THE RIGHT OF THE PAPER, WITH THE OCEAN BEING AT THE TOP
19 OF THE PAPER, INDICATING NORTH DIRECTION.

20 A. THERE IS ONE WAY OUT TO MASON STREET. THIS ENTRANCE GOES
21 ONE WAY WITH ALMOST IDENTICAL ONTO THE RIGHT ONTO THE EAST SIDE.
22 OKAY. HERE IS THE BATHROOM. THE WOMEN'S SIDE TO THE EAST AND
23 THE MEN'S SIDE TO THE WEST.

24 Q. FOR THE RECORD, YOU HAVE INDICATED "M" FOR MEN AND "W" FOR
25 WOMEN. RIGHT?

1 A. YES.

2 Q. IS THAT A ROAD?

3 A. THIS IS A ROAD. IT GOES AND ENDS. IT GOES AROUND AND
4 ALMOST IDENTICAL TO -- I'M SHOWING YOU ONE SIDE OF IT,
5 BASICALLY, ONE SIDE OF CRISSY FIELDS -- FROM THE EXIT. THE
6 ENTRANCE HAS THE SAME TO THE OTHER SIDE MINUS THE BATHROOM.

7 OKAY?

8 MY CAR WAS RIGHT HERE. I'LL PUT "N" FOR NICOLE. THERE WAS
9 A TREE HERE -- ACTUALLY, TWO TREES, AND THEY'RE VERY BIG, RIGHT
10 NEXT TO ME. THERE WAS NOT EVEN A FULL SPACE, AND ANOTHER CAR
11 PARKED HERE. I DON'T KNOW WHOSE CAR THAT WAS. I WALKED TO THE
12 BATHROOM. AS I WAS WALKING BACK I SAW A PARKED POLICE CAR; AND
13 THE REASON IS BECAUSE IT LOOKED LIKE ALMOST A FIREMAN'S VEHICLE,
14 BUT I SAW THE SIDE, AND IT SAID "PARK POLICE".

15 Q. CAN YOU DRAW WITH AN ARROW --

16 A. CAN I --

17 Q. NO. JUST ANSWER MY SPECIFIC QUESTIONS.

18 CAN YOU JUST DRAW WITH AN ARROW THE PATH THAT YOU NOTICED
19 THE POLICE CAR -- WHEN DID YOU FIRST NOTICE THE POLICE CAR?

20 A. AS I WAS WALKING. I WAS RIGHT HERE, ABOUT TO GET TO MY
21 CAR, AND HE WAS DRIVING. I'D SAY HE WAS ABOUT THERE. HE
22 FOLLOWED THIS PATH.

23 Q. CAN YOU INDICATE THAT PATH, FOR THE RECORD, WITH A SERIES
24 OF SMALL ARROWS. AND I AM GOING TO ASK YOU TO DISTINGUISH
25 BETWEEN THE OTHERS YOU DREW BY DRAWING THEM IN BLUE.

1 A. CERTAINLY.

2 Q. YOU DON'T HAVE TO MAKE IT THAT SMALL.

3 A. HE PULLED IN IMMEDIATELY AS I WAS ENTERING MY CAR AND
4 PARKED ABOUT FIVE FEET IN FRONT OF MY FRONT BUMPER.

5 Q. OKAY. YOU CAN RETURN TO YOUR SEAT.

6 DID YOU WATCH THE POLICE OFFICER DO THAT?

7 A. ONCE I GOT INTO THE CAR AND SAW THAT HE WAS PULLING ONTO
8 THE GRASS, YES.

9 Q. DID HE STOP WHERE THE LAST BLUE ARROW IS INDICATED ON THE
10 DIAGRAM?

11 MS. FALK: I'M GOING TO ASK THE COURT TO MARK FOR THE
12 RECORD AS DEFENSE EXHIBIT E.

13 THE WITNESS: MIGHT HAVE BEEN A LITTLE FARTHER, BECAUSE
14 HE WAS RIGHT IN FRONT OF ME SIDEWAYS, IF THAT MAKES SENSE,
15 POINTED TOWARD THE EAST.

16 Q. DID YOU WATCH HIM? DID HE GET OUT OF THE CAR?

17 A. YES, HE DID, IMMEDIATELY.

18 Q. DID YOU SEE HIM GET OUT OF THE CAR?

19 A. YES, I DID.

20 Q. DID HE APPROACH YOUR SIDE OF THE CAR?

21 A. NO, HE DID NOT.

22 Q. WHICH SIDE DID HE APPROACH?

23 A. THE PASSENGER SIDE.

24 Q. WHAT DID THE OFFICER DO AFTER HE APPROACHED THE PASSENGER
25 SIDE?

1 A. THE PASSENGER WINDOW WAS HALFWAY DOWN, AND HE LIKE STUCK
2 HIS HEAD IN THE WINDOW AND ASKED -- YOU KNOW -- IF THERE WAS ANY
3 DRINKING GOING ON, AND THAT IS WHEN MISS BENZON SAID, "NO, THERE
4 IS NO DRINKING GOING ON". I SAID, "IS THERE A PROBLEM I'M NOT
5 SUPPOSED TO BE PARKED ON THE GRASS, BECAUSE THERE IS NO OTHER
6 PLACE TO PARK?"

7 Q. WHAT DID HE SAY?

8 A. HE SAID, "NO, THAT'S OKAY. EVERYONE ELSE IS DOING IT".

9 Q. DID HE ASK QUESTIONS ABOUT WHETHER YOU HAD BEEN DRINKING?

10 A. YES.

11 Q. DID HE ASK ANYTHING OF MISS BENZON IN PARTICULAR?

12 A. JUST -- NO. AT THAT TIME, NO.

13 Q. WHAT DID THE OFFICER DO AFTER HE ASKED ABOUT THE ALCOHOL?

14 A. HE SAID, "WHOSE CAR IS TIHS?"

15 Q. AND DID YOU ANSWER?

16 A. I SAID, "IT'S MINE".

17 Q. DID HE ASK ANYTHING FURTHER?

18 A. NOT AT THAT TIME.

19 Q. DID HE MAKE ANY ACTION WITH ANY OF THE DOORS OF THE CAR?

20 A. HE THEN ASKED MISS BENZON TO STEP OUT OF THE CAR, AND HE
21 OPENED THE DOOR. SHE DID NOT OPEN THE DOOR. HE OPENED THE DOOR
22 FROM THE OUTSIDE.

23 Q. DID HE SAY ANYTHING ABOUT YOU MISSING A FRONT LICENSE
24 PLATE?

25 A. NO, MA'AM.

1 Q. DID YOU SEE MISS BENZON MAKE ANY KIND OF MOVEMENT WHERE
2 SHE BENT HER WAIST AND DUCKED DOWN?

3 A. NO, MA'AM.

4 Q. DID MISS BENZON GET OUT OF THE CAR?

5 A. HE ASKED HER TO, YES.

6 Q. DID THE OFFICER REACH IN AND TAKE SOMETHING OUT OF THE CAR
7 AT THAT POINT?

8 A. YES, HE DID.

9 Q. DO YOU KNOW WHAT HE TOOK OUT?

10 A. NOW I KNOW, YES, THAT IT WAS A WALGREENS BAG OR A SAFEWAY
11 PLASTIC BAG.

12 Q. DID HE TAKE OUT SOMETHING ELSE TOO? DID HE TAKE OUT HEROIN
13 OUT OF THE CAR?

14 A. YES, BUT I BELIEVE HE -- I DON'T KNOW IF THAT WAS INSIDE
15 THE BAG OR IF THAT WAS ON THE FLOOR OR ON THE SIDE. I DID NOT
16 SEE THAT PART. BUT I KNOW IT WAS ON THE PASSENGER SEAT, HE
17 FOUND IT, BECAUSE I WAS STILL IN THE CAR AND I WAS JUST KIND OF
18 FROZEN. I NEVER EXPERIENCED ANYTHING LIKE THAT.

19 Q. SO AFTER MISS BENZON GOT OUT OF THE CAR, DID HE ASK YOU TO
20 GET OUT OF THE CAR?

21 A. NO. HE THEN ASKED MR. MC NATT TO GET OUT OF THE CAR.

22 Q. DID HE EVENTUALLY ASK YOU TO GET OUT OF THE CAR?

23 A. YES.

24 Q. DO YOU REMEMBER, WAS THERE A LIGHTER IN THE CAR?

25 A. YES.

1 Q. WHY WAS THERE --

2 A. BECAUSE I SMOKE CIGARETTES.

3 Q. AND DO YOU REMEMBER WHERE THE LIGHTER WAS?

4 A. I KEEP MY CIGARETTES AND MY LIGHTER, THERE AS LITTLE CUBBIE
5 UNDERNEATH MY STEREO. THAT'S WHERE I KEEP MY CIGARETTES AND
6 LIGHTER.

7 Q. WAS IT ON THE DASHBOARD?

8 A. NO, MA'AM.

9 Q. WAS THERE A BOTTLE CAP WITH WATER ON YOUR DASHBOARD?

10 A. NOT THAT I SAW.

11 Q. DID A SECOND POLICE OFFICER EVENTUALLY COME UP OR DID A
12 SECOND POLICE OFFICER COME TO THE SCENE AS WELL?

13 A. YES, MA'AM.

14 Q. DO YOU REMEMBER HOW LONG IT TOOK FOR THE SECOND POLICE
15 OFFICER TO RESPOND?

16 A. IT WAS BETWEEN -- HE WAS FINISHING UP WITH SEARCHING JENNY
17 AND TALKING WITH HER AND WAS PULLING CHRIS MC NATT OUT OF THE
18 CAR. I WAS STILL SITTING IN THE VEHICLE, AND THE SUV PULLED IN
19 AND BLOCKED ME FROM BEHIND.

20 Q. SO THAT WAS AFTER MISS BENZON WAS OUT OF THE CAR?

21 A. YES, MA'AM.

22 Q. WAS THAT DIFFERENT FROM THE CAR THAT YOU MAKED WITH AN X
23 THAT YOU HAVE INDICATED PULLED IN FRONT OF YOUR CAR?

24 A. YES, MA'AM.

25 Q. CAN YOU DESCRIBE THAT CAR?

1 A. IT WAS A -- I WANT TO SAY A DODGE DURANGO. I THINK IT WAS
2 A DODGE DURANGO SUV.

3 Q. NOT THE ONE IN THE BACK. TALKING ABOUT THE ONE IN THE
4 FRONT.

5 A. THE ONE THAT ORIGINALLY STOPPED ME, IT WAS WHITE AND IT WAS
6 UNMARKED; AND THE REASON I THOUGHT IT WAS A POLICE CAR WAS
7 BECAUSE IT WAS LIKE -- IT LOOKED LIKE A POLICE CAR WITHOUT
8 ANYTHING ON IT, LIKE A CUTLASS SUPREME -- BUT IT HAD -- ONLY
9 THING IT HAD A SHIELD ON THE SIDE OF ONE OF THE DOORS.

10 Q. THERE WAS A SHIELD?

11 A. YES. I THOUGHT IT WAS A PARK RANGER. I KNEW IT WAS SOME
12 KIND OF OFFICIAL. IT WASN'T UNTIL HE PULLED UP AND IDENTIFIED
13 WHO HE WAS, THAT I KNEW THAT IT WAS A PARK POLICEMAN, THAT IT
14 WAS A POLICEMAN.

15 Q. WERE YOU PUT INTO CUSTODY FOR OUTSTANDING WARRANTS ON THAT
16 DAY?

17 A. YES, I WAS.

18 Q. HOW MANY DAYS WERE YOU IN CUSTODY?

19 A. FROM SUNDAY UNTIL TUESDAY AT 2:00.

20 Q. I ACTUALLY WANT, FOR A MINUTE, TO REFER BACK TO YOUR
21 DECLARATION, MISS MAYS. ARE YOU SURE EXACTLY AT WHAT POINT IN
22 TIME THE OFFICER PULLED IN BACK OF YOUR CAR?

23 A. TO BE PERFECTLY HONEST, EVERYTHING HAPPENED SO FAST THAT --
24 AND NOT EVER EXPERIENCING ANYTHING LIKE THAT -- IT SEEMED LIKE A
25 FEW MOMENTS, BUT IT COULD HAVE BEEN A FEW MINUTES.

1 Q. THAT THE OFFICER CAME FROM BEHIND?

2 A. FROM BEHIND, YES.

3 Q. ARE YOU CERTAIN ABOUT THE OFFICER COMING IN ON THE FRONT?

4 A. YES, MA'AM, ABSOLUTELY.

5 Q. COULD YOU HAVE DRIVEN FORWARD AT THAT POINT?

6 A. NO, MA'AM.

7 THE COURT: AT WHICH POINT? THAT WAS AMBIGUOUS. WHEN
8 THE FIRST CAR WAS THERE, BUT NOT THE SECOND?

9 MS.FALK: WHEN THE FIRST CAR WAS THERE.

10 BY MS. FALK:

11 Q. COULD YOU HAVE DRIVEN FORWARD?

12 A. NO.

13 Q. COULD YOU HAVE BACKED OUT?

14 A. I COULD HAVE, BUT BEING THAT MY FAMILY IS ATTORNEYS

15 AND --

16 Q. YOU DON'T HAVE TO GIVE A LONG NARRATIVE.

17 A. I COULD HAVE BACKED OUT, YES.

18 Q. COULD YOU HAVE DRIVEN FORWARD?

19 A. NO.

20 Q. WHEN THE OFFICER OPENED THE CAR DOOR, DID YOU BELIEVE YOU
21 WERE FREE TO GO AT THAT POINT?

22 A. NO, MA'AM.

23 Q. WHEN HE ASKED MISS BENZON OUT OF THE CAR, DID YOU THINK YOU
24 WERE FREE TO GO AT THAT POINT?

25 A. NO, MA'AM.

1 Q. IN YOUR DECLARATION, IN WHICH YOU INDICATED YOU WERE
2 SURROUNDED BY PARK POLICE, CAN YOU EXPLAIN A LITTLE BIT MORE TO
3 THE COURT WHAT YOU MEANT BY THAT?

4 A. I MEANT MORE THAT I FELT SURROUNDED BECAUSE OF THE WAY THAT
5 THIS ORIGINAL CAR DROVE BEHIND AND THEN CAME UP THOROUGH THE
6 GRASS. IT FELT LIKE I WAS BEING SURROUNDED BECAUSE -- THERE
7 WASN'T TWO PARK POLICE ON EITHER SIDE OF ME. I FELT TRAPPED.

8 Q. WAS THAT JUST YOUR SUBJECTIVE FEELING AT THAT TIME?

9 A. YES, MA'AM.

10 Q. WHO PICKED YOU UP FROM CUSTODY?

11 A. JENNY BENZON.

12 Q. LET ME BACK UP. WERE WITH YOU CITED BY THE PARK POLICE?

13 A. YES, MA'AM.

14 Q. WAS ONE OF YOUR CITATIONS FOR FAILURE TO HAVE A FRONT
15 LICENSE PLATE?

16 A. YES, MA'AM.

17 Q. AT THE TIME YOU WERE CITED, WHAT DID YOU THINK ABOUT? I
18 MEAN --

19 A. I DID NOT SEE THE CITATION FOR NOT HAVING THE FRONT LICENSE
20 PLATE 'TILL I PICKED UP MY PROPERTY ON TUESDAY AFTERNOON WHEN I
21 WAS RELEASED FROM CUSTODY.

22 Q. DID MISS BENZON PICK YOU UP?

23 A. YES.

24 Q. DID YOU DISCUSS YOUR CITATION FOR FAILING TO HAVE YOUR
25 FRONT LICENSE PLATE WITH HER AT THE TIME?

1 A. YES, I DID.

2 Q. DID YOU BOTH -- DID YOU WITNESS HER LOOKING AT YOUR FRONT
3 LICENSE PLATE?

4 A. WE GOT OUT AT THE SAME TIME. WE STOPPED AFTER WE GOT OUT
5 OF THE MAIN TRAFFIC ZONE OF DOWNTOWN, AND I SAID, "LET'S STOP,
6 BECAUSE WE NEED TO GET GAS," AND AT THAT TIME WE LOOKED AND
7 SAID, "OH MY GOD, THERE IS A FRONT LICENSE PLATE ON HERE". YOU
8 KNOW -- JUST MADE NO SENSE. WE BOTH GOT OUT OF THE CAR AND
9 LOOKED. THERE WAS A FRONT LICENSE PLATE.

10 Q. DID YOU TELL MR. MC NATT OR MISS BENZON BEFORE THEY LEFT
11 THE SCENE, THAT THEY SHOULD GO AND TRY TO GET A FRONT LICENSE
12 PLATE PUT ON YOUR CAR?

13 A. NO.

14 Q. WAS THERE A FRONT LICENSE PLATE ON YOUR CAR AS OF
15 MARCH 18, 2007?

16 A. YES, MA'AM.

17 Q. ON THE DATE THAT YOU PICKED UP MISS PEREZ TO TAKE HER TO
18 THE DMV, WHAT CAR WERE YOU DRIVING?

19 A. THE SAME CAR.

20 Q. DO YOU STILL HAVE THAT CAR?

21 A. NO.

22 Q. BUT WERE THE FRONT LICENSE -- WAS THE FRONT LICENSE PLATE
23 STILL ON THE CAR AS OF THE TIME YOU PICKED UP PASTOR PEREZ?

24 A. YES, MA'AM.

25 MS. FALK: NO FURTHER QUESTIONS.

1 THE COURT: GO AHEAD.

2 CROSS-EXAMINATION

3 BY MS. WANG:

4 Q. YOU WROTE A DECLARATION THIS INCIDENT HAPPENED ON MARCH
5 18TH, CORRECT?

6 A. YES.

7 Q. YOU SIGNED THAT DECLARATION?

8 A. YES.

9 Q. AND YOU SWORE TO TELL THE TRUTH IN THAT DECLARATION
10 DOCUMENT?

11 A. YES.

12 Q. EVERYTHING WRITTEN IN THAT DECLARATION WAS THE TRUTH?

13 A. THERE ARE A COUPLE OF THINGS AFTER READING IT NOW THAT I
14 REALIZE I HAD MADE A MISTAKE ON. MORE OF THE SUBJECTIVE FEELING
15 THAN MAY BE NECESSARILY THE COMPLETE -- NOW THAT I LOOK BACK AT
16 IT -- SO FAR AS LIKE BEING SURROUNDED, I FELT SURROUNDED.

17 Q. OKAY. BUT ON AUGUST 14 WHEN YOU WROTE THIS DECLARATION YOU
18 WERE WRITING, EVERYTHING YOU WERE WRITING WAS BELIEVED BY YOU TO
19 BE TRUE?

20 A. YES.

21 Q. YOU WROTE IN YOUR DECLARATION THAT YOU WERE ABOUT TO LEAVE
22 THE AREA WHEN YOU WERE SUDDENLY SURROUNDED BY POLICE VEHICLES ON
23 ALL SIDES, CORRECT?

24 A. OKAY. YES.

25 Q. WHEN YOU SAY YOU WERE ABOUT TO LEAVE, WAS THE IGNITION ON?

1 A. NO, BUT THE KEYS WERE IN THE IGNITION.

2 Q. YOU WERE PARKED?

3 A. YES.

4 Q. SO YOU WEREN'T ACTUALLY ATTEMPTING TO DRIVE AWAY?

5 A. WELL, ONCE I SAW A POLICEMAN PULL IN FRONT OF ME, NO, I
6 WASN'T GOING TO PULL AWAY.

7 Q. BEFORE YOU EVEN SAW THE POLICEMAN APPROACH, YOUR IGNITION
8 ON YOUR CAR WAS NOT ON?

9 A. I WASN'T IN THE CAR. I WAS WALKING BACK FROM THE BATHROOM.

10 Q. SO WHEN YOU GOT BACK FROM THE BATHROOM, THE POLICE CAR WAS
11 ALREADY THERE?

12 A. I SAT DOWN IN THE CAR, PUT THE KEYS IN THE IGNITION, AND
13 THE POLICEMAN PULLED AROUND AND PARKED IN FRONT OF ME.

14 Q. OKAY. WHEN YOU SAY IN YOUR DECLARATION, "SUDDENLY
15 SURROUNDED BY POLICE VEHICLE ON ALL SIDES," YOU WERE REFERRING
16 TO ONE PARKED VEHICLE?

17 A. NO. FRONT AND REAR.

18 Q. SO AT THAT TIME WHEN YOU WERE -- YOU'D JUST GOTTEN BACK
19 FROM THE BATHROOM, SITTING IN THE CAR, TWO POLICE VEHICLES
20 APPROACHED, ONE IN THE FRONT AND ONE IN THE REAR?

21 A. ONE APPROACHED TO THE FRONT. HE APPROACHED THE CAR, AND
22 WITHIN A MINUTE OR TWO, ANOTHER VEHICLE PULLED IN BEHIND AND
23 BLOCKED ME IN.

24 Q. SO WHEN YOU SAY ON PAGE ONE OF YOUR DECLARATION, "I WAS
25 SUDDENLY SURROUNDED BY POLICE VEHICLES ON ALL SIDES," THEN ON

1 PAGE TWO OF YOUR DECLARATIONS YOU SAY A FEW MOMENTS LATER
2 ANOTHER DEPUTY ARRIVED, YOU WERE REFERRING TO THE SAME --

3 A. REFERRING TO THE ONE THAT PULLED IN BEHIND ME, YES.

4 Q. OKAY. SO --

5 A. I DON'T KNOW WHAT YOU'RE ASKING ME, I GUESS.

6 Q. WELL, THE WAY I READ YOUR DECLARATION, FROM WHAT I
7 UNDERSTAND, IT SEEMS TO ME THAT YOU WERE SAYING YOU WERE
8 SUDDENLY SURROUNDED BY MORE THAN ONE VEHICLE -- VEHICLES ON ALL
9 SIDES -- AND THEN AFTER THAT HAD ALREADY TAKEN PLACE, MOMENTS
10 LATER ANOTHER POLICE VEHICLE CAME FROM BEHIND.

11 IS THAT CORRECT?

12 A. THAT'S NOT WHAT I SAID, THOUGH. WHAT I SAID WAS THAT
13 MOMENTS -- YES, I WAS BLOCKED IN FROM THE FRONT AND THE REAR,
14 BUT IT WAS MOMENTS LATER THAT THE ONE CAME FROM THE REAR AND
15 BLOCKED ME IN.

16 Q. OKAY. IN YOUR DECLARATION YOU STATE, "BEFORE I COULD PULL
17 AWAY, I WAS SUDDENLY SURROUNDED BY U.S. PARK POLICE VEHICLES ON
18 ALL SIDES. THE PARK POLICE USED THEIR VEHICLES TO BLOCK MY
19 PATH."

20 A. YES. I HAD A CAR PARKED TO MY LEFT THAT WAS A CIVILIAN
21 CAR, TREES TO MY RIGHT, AND PARK POLICE IN FRONT AND IN BACK OF
22 ME PARKED SIDEWAYS. SO THERE WAS NO EXIT FOR ME EVEN IF I WAS
23 GOING TO PULL AWAY.

24 Q. SO THEN YOU GO ON TO SAY, "ONE OFFICER PULLED OFF THE ROAD
25 INTO THE GRASSY AREA AND PARKED HIS CAR CROSSWISE IN FRONT OF MY

1 CAR, A FEW FEET AWAY FROM MY CAR".

2 A. RIGHT.

3 Q. "THEN MOMENTS LATER ANOTHER DEPUTY ARRIVED."

4 A. RIGHT.

5 Q. DID ANYTHING HAPPEN BETWEEN THE TIME THAT THE ONE OFFICER
6 APPROACHED AND THEN THE OTHER ONE CAME FROM BEHIND?

7 A. HE HAD JUST PULLED MISS BENZON OUT OF THE CAR.

8 Q. SO YOU DESCRIBE IT AS A FEW MOMENTS BETWEEN WHEN THE OTHER
9 OFFICER'S CAR CAME, HE HAD ALREADY COME TO THE VEHICLE, SPOKEN TO
10 YOU AND THE OTHER OCCUPANTS AND TOLD MISS BENZON SO EXIT THE
11 VEHICLE, CORRECT?

12 A. WELL, HE ASKED ME ONE QUESTION AND ASKED HER ANOTHER
13 QUESTION, AND THEN OPENED THE DOOR. SO, YES.

14 Q. YOU COULD HAVE BACKED UP. SO YOU WEREN'T BLOCKED FROM
15 OUTSIDE, CORRECT?

16 A. WELL NOT UNTIL THAT MOMENT, NOT UNTIL HE PULLED JENNY
17 BENZON OUT OF THE CAR.

18 Q. HOW MANY POLICE OFFICERS WERE THERE ALL TOGETHER?

19 A. TWO, AND TWO SEPARATE VEHICLES.

20 Q. ONE OFFICER APPROACHED FIRST, CORRECT?

21 A. YES, MA'AM.

22 Q. HE HAD COME OUT OF HIS CAR AND WALKED OVER TO YOUR CAR AND
23 SPOKEN TO YOU BEFORE THE OTHER POLICE CAR APPROACHED, CORRECT?

24 A. YES.

25 Q. SO YOUR TESTIMONY TODAY IS THAT YOU WERE NOT SUDDENLY

1 SURROUNDED BY POLICE VEHICLES ON ALL SIDES LIKE YOU WROTE IN
2 YOUR DECLARATION DOCUMENT. CORRECT?

3 A. I BELIEVE THAT I WROTE IN MY DECLARATION THAT I WAS BLOCKED
4 IN MY FRONT AND MY REAR; THAT I WAS SURROUNDED ON ALL SIDES.
5 NOW, IF THAT WAS WRITTEN DIFFERENTLY, I AM NOT SURE, BECAUSE I
6 WAS BLOCKED IN ON ALL SIDES ONCE THE TWO POLICE VEHICLES WERE
7 THERE, BECAUSE THERE WAS A CIVILIAN CAR TO MY LEFT AND TREES TO
8 MY RIGHT.

9 Q. WHEN MISS BENZON WAS ASKED TO GET OUT OF THE CAR, THERE
10 WERE METAL SPOONS CONTAINING TAR HEROIN RESIDUE ON HER SEAT,
11 CORRECT?

12 A. I DID NOT SEE THOSE, SO I DON'T KNOW WHETHER THOSE WERE ON
13 HER SEAT OR IN THE BAG THAT HE PICKED UP.

14 Q. YOU WERE AWARE THERE WERE METAL SPOONS WITH TAR HEROIN
15 RESIDUE IN YOUR VEHICLE?

16 A. I WAS AWARE ONCE I RETURNED FROM THE BATHROOM, YES. BEFORE
17 THAT, I WAS NOT AWARE THERE WERE ANY DRUGS IN IN MY VEHICLE AT
18 ALL. I DO NOT DO DRUGS.

19 Q. YOU TESTIFIED ON DIRECT THAT THERE WAS NO PLASTIC BOTTLE
20 CAP WITH WATER ON THE DASHBOARD?

21 A. NO, THERE WAS NOTHING ON THE DASHBOARD.

22 Q. YOU WERE SITTING IN HERE LISTENING TO THE TESTIMONY OF ALL
23 THE OTHER WITNESSES, CORRECT?

24 A. YES.

25 Q. WHEN JENNY BENZON TESTIFIED THERE WAS A PLASTIC BOTTLE CAP

1 ON THE DASHBOARD WITH SOME WATER ON IN IT, SHE WAS LYING?

2 A. I BELIEVE SHE SAID THERE WAS A WATER CAP THAT SHE HAD IN
3 THE CENTER CONSOLE, SO I DIDN'T SEE IT ON THE DASHBOARD, AND I
4 DIDN'T SEE THE BOTTLE CAP. WHAT I WALKED INTO WAS A TOTAL MESS,
5 AND THEN THE POLICE SHOWED UP.

6 Q. HOW LONG WERE YOU PARKED IN THE SPOT WHERE YOU WERE PARKED
7 ALTOGETHER?

8 A. ALTOGETHER?

9 Q. FROM THE TIME YOU FIRST PARKED UNTIL THE TIME YOU CAME BACK
10 FROM THE BATHROOM.

11 A. THREE MINUTES.

12 Q. SO YOU PARKED THE CAR, YOU WERE THERE THREE MINUTES.

13 A. PARKED THE CAR, WALKED TO THE BATHROOM, USED THE BATHROOM,
14 WALKED BACK, SAT DOWN IN THE CAR, AND THE FIRST VEHICLE PULLED
15 IN AND PARKED IN FRONT OF ME.

16 Q. YOU WATCHED THIS VEHICLE APPROACH?

17 A. I SAW HIM APPROACH. ONCE I SAT DOWN IN THE VEHICLE, I SAW
18 HIM PULL IN AROUND THE SIDE AND -- I SAW HIM, AND THEN HE PULLED
19 IN FRONT.

20 Q. SO IT'S YOUR TESTIMONY THAT THE OFFICER SAID, "WHOSE CAR IS
21 THIS?" NOT "WHOSE HEROIN IS THIS?"

22 A. CORRECT.

23 Q. YOU SAID, "IT'S MINE"?

24 A. RIGHT.

25 Q. BUT IT'S NOT YOUR CAR, IS IT?

1 A. WELL, ACTUALLY, IT WAS GOING TO BE TRANSFERRED TO ME. IT
2 WAS -- JOHNNY SULLIVAN HAD ME PUT MONEY ON HIS BOOKS IN JAIL, SO
3 HE WAS TO TRANSFER IT TO ME, SO I BELIEVED IT TO BE MY CAR.

4 Q. SO THE CAR WAS NOT REGISTERED TO YOU AT THE TIME OF THE
5 INCIDENT?

6 A. THAT IS CORRECT.

7 Q. SO THE OFFICER ASKED "WHOSE CAR IS THIS?" AFTER HE HAD
8 FOUND TAR HEROIN IN THE CAR?

9 A. BEFORE.

10 Q. SO HE CAME OVER TO THE CAR. AND WHAT HAPPENED WHEN HE CAME
11 OVER TO THE CAR?

12 A. HE STUCK HIS HEAD IN AND SAID, "WHAT ARE YOU GUYS DOING,
13 DRINKING?" AND WE, MISS BENZON -- WE BOTH SAID, "NO, THERE IS
14 NO ALCOHOL IN THE CAR". AND THEN I SAID, "SIR, AM I NOT
15 SUPPOSED TO BE PARKED ON THE GRASS?" BECAUSE I'VE BEEN TO
16 CRISSY FIELD BEFORE AND I KNOW SOMETIMES THERE ARE TIMES THEY DO
17 RESTORATION, AND YOU CAN'T PARK IN THE GRASS. SO I ASKED THAT
18 WHEN HE SAID, "WHOSE CAR IS THIS?" I SAID "IT'S MINE". THEN HE
19 PULLED JENNY OUT OF THE CAR.

20 IT ALL HAPPENED VERY FAST. HE PULLED JENNIE OUT AND
21 SAID, "YOU NEED TO STEP OUT OF THE CAR," AND I GUESS HE HAD SEEN
22 WHAT HE SAID HE THINKS HE SAW, AND SHE STEPPED OUT, AND HE
23 STARTED HIS SEARCH WHILE I WAS STILL SITTING IN THE DRIVER'S
24 SEAT.

25 Q. THIS WHOLE ENCOUNTER YOU JUST DESCRIBED, HE WAS THE ONLY

1 OFFICER WHO WAS ON THE SCENE AT THAT TIME?

2 A. UNTIL --

3 Q. MY QUESTION IS JUST FOR THAT WHOLE ENCOUNTER YOU JUST
4 DESCRIBED.

5 A. YES, AT THAT TIME.

6 Q. WHEN YOU SAID YOU GOT BACK FROM THE BATHROOM AND GOT TO THE
7 CAR AND YOU SAW A MESS, WHAT ARE YOU REFERRING TO?

8 MS. FALK: OBJECTION. MISS MAYS HAS A RIGHT TO TESTIFY
9 ABOUT THIS INCIDENT, RELATIVE TO THE SUPPRESSION, WITHOUT HAVING
10 QUESTIONS BE ASKED OF HER ON THE ULTIMATE ISSUE THAT IS THE
11 ISSUE IN THIS CASE. I'M CONCERNED WE ARE GETTING DANGEROUSLY
12 CLOSE TO THAT.

13 THE COURT: WELL, I DON'T KNOW THE ANSWER, BUT SHE IS
14 THE ONE WHO TESTIFIED TO THAT. SO SHE BROUGHT THAT UP IN
15 RESPONSE TO ONE OF YOUR QUESTIONS. "I DON'T DO DRUGS, I GOT
16 BACK AND CONFRONTED A MESS," AND SHE IS SAYING WHAT SHE SAW, AND
17 DIDN'T, SO SHE DIDN'T SEE A BOTTLE CAP WITH WATER, BUT SEEMS SHE
18 MAY HAVE OPENED THE DOOR. IF I'M WRONG, I'M NOT GOING TO FORCE
19 THAT TO BE ANSWERED, BUT IF I'M RIGHT, SHE MAY HAVE TO ANSWER
20 THAT. NOT AT THIS TIME MOMENT. I'LL LET YOU BRIEF IT OR HEAR
21 FROM YOU. THAT WAS HER OWN WORDS.

22 MS. FALK: I WOULD APPRECIATE THE OPPORTUNITY TO BRIEF
23 THAT ISSUE FURTHER.

24 THE COURT: DID YOU HAVE ANY COMMENTS?

25 MS. WANG: IF MISS FALK WOULD LIKE A POST-HEARING

1 BRIEFING, WE CAN DO THAT. WE SHOULD PROBABLY DISCONTINUE
2 QUESTIONING.

3 THE COURT: BUT IT'S A QUESTION THAT I HAVE BECAUSE IT
4 MAY BE A BLOCKED QUESTION. IF SO, FINE, BUT IN MY MIND, IT
5 WOULD RELATE TO THE CREDIBILITY OF WHAT SHE IS SAYING SHE SAW
6 AND DIDN'T SEE. BUT GO AHEAD.

7 BY MS. WANG:

8 Q. NOW, YOU WEREN'T AWARE THAT THERE WAS ANY HEROIN IN THE CAR
9 'TILL YOU GOT BACK FROM THE RESTROOM?

10 A. THAT IS CORRECT.

11 Q. YOU WEREN'T AWARE THERE WAS SYRINGES ON THE FLOORBOARD OF
12 WHERE YOU WERE SITTING?

13 A. I WASN'T -- THEY WERE NOT WHERE I WAS SITTING. I WAS IN
14 THE DRIVER'S SEAT.

15 Q. AND ON THE FLOORBOARD OF THE DRIVER'S SEAT --

16 A. ON THE PASSENGER SEAT.

17 MS. WANG: I BELIEVE THE SYRINGES WERE ON THE DRIVER
18 SIDE.

19 Q. IT'S YOUR TESTIMONY THAT THE OFFICER ASKED WHOSE CAR IT
20 WAS, YOU SAID, "IT'S MINE," AND HE THEN ORDERED THE PASSENGER
21 OUT OF THE CAR?

22 A. YES.

23 Q. THE OFFICER NEVER SAID ANYTHING ABOUT HEROIN OR DRUGS?

24 A. WELL, HE DID ASK, ONCE HE FOUND IT, "WHOSE IS THIS?" AND NO
25 ONE ANSWERED.

1 Q. WHEN WAS THAT?

2 A. AFTER HE HAD PULLED MISS BENZON OUT OF THE CAR.

3 Q. SO HE SAID, "WHOSE IS THIS" AND NO ONE RESPONDED?

4 A. CORRECT.

5 Q. WHAT DID HE DO AFTER NO ONE RESPONDED? DID HE FOLLOW UP?

6 A. WELL, WHEN HE CONTINUED TO ASK AND NO ONE ANSWERED, THEN HE
7 STARTED ASKING HER FOR HER LICENSE, MR. MC NATT FOR HIS LICENSE,
8 AND ME FOR MY LICENSE AND THEN I HAD A SEVEN OR EIGHT-YEAR OLD
9 WARRANT SHOW UP.

10 Q. YOU SAID THAT YOU NEVER EXPERIENCED ANYTHING LIKE THIS
11 BEFORE. I THINK YOU SAID THAT TWICE ON DIRECT EXAMINATION.
12 WHAT ARE YOU REFERRING TO?

13 A. I HAVE NEVER BEEN STOPPED AND SEARCHED FOR DRUGS OR
14 ANYTHING LIKE THAT. I HAVE NEVER HAD ANYTHING LIKE THAT HAPPEN.

15 Q. YOU NEVER UNCOUNTERED LAW ENFORCEMENT BEFORE?

16 A. I HAVE ENCOUNTERED LAW ENFORCEMENT. I WORKED WITH LAW
17 ENFORCEMENT.

18 Q. YOU HAD TWO OUTSTANDING WARRANTS?

19 A. CORRECT. FOR A SHOPLIFTING INCIDENT THAT HAPPENED WHEN I
20 WAS 19 YEARS OLD THAT I DID SWAP DIVERSION FOR.

21 Q. WHEN THAT HAPPENED, YOU HAD CONTACT WITH OFFICERS?

22 A. VERY LITTLE.

23 Q. SO WHAT WAS IT WHEN YOU'RE SAYING "NEVER EXPERIENCED"?

24 A. NEVER BEEN IN A CAR THAT'S BEEN SEARCHED, NEVER HAD A DRUG
25 CHARGE -- YOU KNOW. I DON'T ASSOCIATE WITH PEOPLE LIKE THAT.

1 Q. AFTER THE OFFICER SEARCHED AND AFTER HE FOUND HEROIN IN THE
2 CAR, THEN ANOTHER OFFICER PULLED UP ON THE BACK OF THE CAR.

3 CORRECT?

4 A. IT WAS A LITTLE BIT BEFORE THAT, YES.

5 Q. AFTER THE OFFICER HAD FOUND THAT YOU HAD TWO OUTSTANDING
6 WARRANTS, THE OTHER OFFICER PULLED BEHIND, CORRECT?

7 A. NO. IT WAS WAY BEFORE THAT THAT THE OTHER OFFICER PULLED
8 BEHIND. BECAUSE I WAS THE PERSON WHOSE LICENSE HE RAN, AND THE
9 LAST PERSON THAT HE SEARCHED.

10 Q. SO WHEN HE HAD JUST COME UP, THE OFFICER HAD JUST COME UP
11 TO THE VEHICLE AND HE ASKED IF THERE WAS ANY DRINKING, HE ASKED
12 WHOSE CAR IT WAS, TOLD JENNY TO GET OUT OF THE THE CAR?

13 A. CORRECT.

14 Q. HE FOUND HEROIN?

15 A. CORRECT.

16 Q. AND HE THEN RAN THE LICENSES?

17 A. CORRECT.

18 Q. AND THEN --

19 A. NO. AFTER HE PULLED HER OUT AND FOUND THOSE THINGS, THEN
20 THAT'S WHEN THE OTHER OFFICER SHOWED UP BEHIND MY VEHICLE. HE
21 THEN SEARCHED CHRISTOPHER MC NATT, THEN HE SEARCHED ME AND THEN
22 HE, ONE BY ONE, RAN ALL OF OUR LICENSES.

23 Q. SO AFTER THE HEROIN WAS FOUND IN THE CAR YOU WERE DRIVING
24 IS WHEN THE OTHER OFFICER CAME ONTO THE SCENE?

25 A. CORRECT.

1 Q. AT THAT POINT YOU COULDN'T HAVE BACKED OUT?

2 A. CORRECT.

3 Q. BUT BEFORE THAT POINT YOU COULD HAVE?

4 A. YES.

5 Q. YOU TESTIFIED ON DIRECT THAT YOU DIDN'T SEE THE CITATION,
6 SO YOU DIDN'T KNOW THAT YOU WERE BEING CITED FOR NOT HAVING A
7 LICENSE PLATE?

8 A. CORRECT, YES.

9 Q. BUT YOU SIGNED THAT CITATION?

10 A. THERE WAS A STACK OF CITATIONS THAT HEHAD GIVEN ME. I
11 DIDN'T HAVE TIME TO READ EACH AND EVERY ONE OF THEM, SO I
12 DIDN'T, 'TILL I GOT OUT TUESDAY AFTERNOON, READ THEM.

13 Q. BUT YOU SIGNED THEM ALL AT THAT TIME, CORRECT?

14 A. I HAD ABOUT A MINUTE TO SIGN THEM ALL.

15 Q. DID THE OFFICER TELL YOU YOU HAD EXACTLY ONE MINUTE TO SIGN
16 THEM?

17 A. THEY WERE TRANSFERRING ME TO THE MAIN JAIL, SO I HAD NO
18 TIME. THEY WALK YOU OUT, THEY HOLD THEM IN FRONT OF YOU, SIGN,
19 SIGN, SIGN, AND THEN THEY PUT ME IN THE BACK OF A CAR AND TOOK
20 ME DOWN TO 850 BRYAN.

21 Q. SO YOU RECEIVED A STACK OF CITATIONS AND SIGNED THEM ALL,
22 BUT YOU HADN'T READ THEM?

23 A. NO, BECAUSE THEN THEY WERE PUT A PROPERTY ENVELOPE THAT I
24 WASN'T ALLOWED TO TOUCH.

25 Q. THE OFFICER THAT APPROACHED YOU, WAS HE IN UNIFORM?

1 A. IT WASN'T A REGULAR UNIFORM THAT I HAVE EVER SEEN, LIKE
2 HE'S DRESSED TODAY.

3 Q. WHAT WAS HE WEARING?

4 A. IT WAS LIKE A POLO SHIRT, IT WAS LIKE A NAVY BLUE, AND I
5 WANT TO SAY IT HAD LIKE AN EMBLEM OR A PATCH OR SOMETHING ON IT.
6 THE PANTS WERE KHAKI-TYPE. I'M NOT QUITE SURE. I THINK THEY
7 WERE SHORTS OR PANTS. THE ONLY THING I KNEW THAT MADE ME
8 REALIZE IT WASN'T JUST A RANGER, WAS THAT HE HAD A BELT THAT
9 THAT HAD A HOLSTER WITH A GUN, HANDCUFFS, AND A BADGE ON IT.

10 Q. SO IT WAS CLEAR HE WAS A --

11 A. ONCE HE GOT OUT AND STARTED WALKING TOWARD THE CAR, YES.
12 THAT'S WHY I DID NOT ATTEMPT TO BACK UP MY CAR.

13 Q. HIS VEHICLE WAS MARKED U.S. PARK POLICE, AND IT WAS CLEAR
14 IT WAS A POLICE?

15 A. MA'AM, THERE WAS, WHAT I COULD SEE, AN EMBLEM. I COULDN'T
16 READ WHAT IT SAID BECAUSE I DIDN'T HAVE MY GLASSES ON.

17 Q. WAS THAT VEHICLE AN SUV?

18 A. NO. THE SECOND VEHICLE WAS AN SUV, THAT PARKED BEHIND ME.

19 Q. IS IT YOUR TESTIMONY THAT THE PASSENGER, JENNY BENZON,
20 NEVER BENT DOWN AT THE WAIST WHEN SHE SAW THE POLICE OFFICER
21 APPROACH?

22 A. I DIDN'T SEE HER BEND DOWN, NO.

23 Q. THERE WERE SYRINGES ON THE FLOORBOARD OF HER SEAT?

24 A. YES. I BELIEVE THAT SHE WAS HIDING THEM FROM ME.

25 Q. WAS SHE HIDING THESE ITEMS FROM YOU BEFORE OR AFTER SHE SAW

1 THE POLICEMAN, TO YOUR RECOLLECTION?

2 A. BEFORE.

3 Q. BEFORE HE APPROACHED OR BEFORE --

4 A. WAY BEFORE WE EVEN LEFT SONOMA COUNTY.

5 Q. BUT IT WAS WHEN YOU IMMEDIATELY GOT BACK FROM THE BATHROOM
6 INSTANTANEOUSLY OR WITHIN SECONDS OR MINUTES THE POLICE OFFICER
7 HAD APPROACHED?

8 A. RIGHT. BUT SHE SAW ME WALKING BACK TO THE CAR, AND I THINK
9 WAS SURPRISED HOW FAST I HAD WALKED BACK; THAT SHE THOUGHT I WAS
10 GOING TO TAKE LONGER IN THE BATHROOM.

11 Q. SO SHE -- WAS IT POSSIBLE SHE HAD BENT AT THE WAIST TO
12 CONCEAL THE SYRINGES AND PARAPHERNALIA FROM YOU?

13 MS. FALK: OBJECTION. ANYTHING IS POSSIBLE.

14 THE COURT: WELL, REPHRASE THE QUESTION.

15 BY MS. WANG:

16 Q. IS IT YOUR BELIEF THAT MISS BENZON HAD DRUGS AND HAD BENT
17 AT THE WAIST AND TRIED TO CONCEAL IT BEFORE YOU GOT BACK IN THE
18 VEHICLE?

19 A. YES, MA'AM.

20 Q. IT APPEARED TO YOU, FROM WHAT YOU SAY, THAT SHE WAS TRYING
21 TO CONCEAL SOMETHING, AS OPPOSED TO, SAY, SCRATCHING HER ANKLE?

22 A. WELL, I DON'T KNOW EXACTLY, WHEN THE OFFICER IS SAYING THAT
23 HE SAW HER BEND AT THE WAIST AND SCRATCH OR TRIED TO HIDE
24 ANYTHING, BUT I KNOW THAT I DIDN'T SEE HER BEND OR ANYTHING LIKE
25 THAT, EVEN WHEN I WAS WALKING UP TO THE CAR.

1 MS. WANG: CAN I HAVE A MOMENT?

2 THE COURT: YES.

3 BY MS. WANG:

4 Q. YOU TESTIFIED YOU'VE NEVER DONE DRUGS?

5 A. THAT'S RIGHT. I NEVER SAID THAT I NEVER DID DRUGS. I SAID
6 I DO NOT DO DRUGS.

7 MS. FALK: OBJECTION. THIS IS WAY BEYOND THE SCOPE OF
8 DIRECT AND, ALSO, IT'S IMPLEMENTING THE POSSIBILLITY OF FIFTH
9 AMENDMENT ISSUES, AND IMPROPER.

10 THE COURT: I GUESS -- THE QUESTION, AGAIN, IS -- I
11 MEAN -- SHE SAID NOTHING LIKE THIS EVER HAPPENED TO HER BEFORE,
12 SO I DON'T KNOW TO WHAT EXTENT THAT MAY OPEN THE DOOR OR MAY BE
13 FIFTH AMENDMENT OBJECTIONS, WHICH IS ANOTHER ISSUE.

14 MS. FALK: I MOVE TO HAVE THAT QUESTION AND ANSWER
15 STRICKEN.

16 THE COURT: AND THE EX-BOYFRIEND SAID THEY MET IN A
17 DRUG TREATMENT.

18 MS. FALK: THAT QUESTION IS ENTIRELY -- I ASK THAT THE
19 QUESTION AND ANSWER BE STRICKEN.

20 THE COURT: THERE WASN'T AN ANSWER. I DON'T BELIEVE
21 SO. I'M NOT SURE WHAT THE QUESTION WAS. I THINK YOU OBJECTED
22 BEFORE THE QUESTION WAS COMPLETED.

23 MS. WANG: I SAID, I BELIEVE YOU TESTIFIED THAT YOU
24 NEVER --

25 THE COURT: SHE DIDN'T TESTIFY THAT. I THINK SHE SAID,